Supreme Court, U.S.
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MAR 24 1987
JOSEPH F. SPANIOL, JR.
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No. 86-1350

In The

Supreme Court of the United States

OCTOBER TERM, 1986

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423 SOUTH SALINA STREET, INC.,

Appellant,

vs.

CITY OF SYRACUSE, METROPOLITAN DEVELOPMENT FOUNDATION OF CENTRAL NEW YORK, INC., AND AMLEA (NEW YORK), INC.,

Appellees.

REPLY TO MOTION TO DISMISS

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REPLY TO MOTION TO DISMISS OR AFFIRM

The City of Syracuse's Motion to Dismiss or Affirm simply repeats all of the arguments which New York's court of last resort rejected in its Opinion. The Court of Appeals found that the Complaint stated a Cause of Action and that the action was commenced within the applicable Statute of Limitations. The City's reiteration of rejected arguments should not be permitted to obfuscate the sole remaining issue before this Court — an issue which the Court of Appeals observed this Court has "yet to consider" (see Jurisdictional Statement, p. A-19) — whether the application of New York's General Municipal Law §50-i to a federal civil rights claim violates the Supremacy Clause of the Constitution. This Court clearly has jurisdiction of that issue pursuant to 28 USC §1257(2). This argument was raised consistently below (see, for example, Point II of Appellant's Reply Brief below, which is found on p. 2c of Appellee's Appendix C).

While Appellant never argues that New York General Municipal Law, §50-i, is constitutionally invalid on its face, it has steadily argued that it would be unconstitutional if applied to a federal civil rights claim. The conflict among the lower federal courts and the overriding importance of this sole remaining issue, clearly warrant this Court's noting probable jurisdiction or treatment of the Jurisdictional Statement as a Petition for Certiorari and granting the Petition.

Respectfully Submitted,

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